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~~CONFIDENTIAL~~

Counsel for Defendant
Keven Yang

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

UNITED STATES,

Plaintiff,

v.

KEVEN CHEN CHIEH YANG,

Defendant.

Case No. CR 11-00472 RMW

**MOTION TO CONTINUE STATUS
HEARING DATE**

Date: December 10, 2012

Time: 9:00 a.m.

Court: The Hon. Ronald M. Whyte

Defendant, Keven Yang, through his counsel, Michael W. Armstrong, of Nolan, Armstrong & Barton, LLP, hereby moves the court for a continuance of the status hearing presently scheduled for Monday, December 10, 2012, at 9:00 a.m. before the Honorable Ronald M. Whyte.

The reason for this motion is that on approximately October 17, 2012, Judge Grewal approved the issuance of a subpoena duces tecum to the law firm of Fenwick & West. The records sought by defendant include documents and communications between Fenwick & West and their then-client, Mr. Calvin Yu, and his father who are the alleged victims of the crimes charged against Mr. Yang in the present indictment. Fenwick & West advised Mr. Yu and his father about

1 entering into various business dealings with Mr. Yang in approximately 2006 through 2008, some
2 of which dealings are the subject of the present indictment.

3 In the discovery already received from the government in this case are included emails
4 from Fenwick & West to Mr. Yu, some of which are then forwarded on to Mr. Yang. The
5 communications among these parties and the advice and knowledge passed on to Mr. Yu from his
6 then-attorneys at Fenwick & West are important facts for the determination of issues raised by this
7 indictment.

8 The subpoena duces tecum was served on Fenwick & West on November 1, 2012, and
9 since that date, defendant's counsel, Michael W. Armstrong, has been in contact with lawyers at
10 Fenwick & West about the production of these documents. Fenwick & West has indicated that
11 they have issues with both the scope of the subpoena in terms of the records sought, as well as
12 possible privilege issues, since they were not representing Mr. Yu in the subsequent civil suit
13 brought by him against Mr. Yang which was litigated in the California State Court. The issues
14 raised by Fenwick & West, both as to the scope of the subpoena and the privilege issues, are
15 complex and need more time to be sorted out between counsel for Mr. Yang and Fenwick & West.

16 I have advised counsel for the government, Amber Rosen, of the situation, and even
17 forwarded on to her a written reply that I received from Fenwick & West as to their concerns
18 about the subpoena. Ms. Rosen has indicated to Mr. Armstrong that she has no objection to this
19 request for a continuance of the status hearing, but wanted Mr. Armstrong to put this information
20 in writing before the court in the form of a motion so that the court and counsel would have further
21 written understanding of the issues raised by the issuance of the subpoena duces tecum in this
22 case.

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1 For these reasons, counsel for defendant moves the court for a continuance of the status
2 hearing from December 10, 2012 to Hgdtwct{"6, 2013.

3 Respectfully submitted,

4 NOLAN, ARMSTRONG & BARTON

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6 Dated: December 7, 2012

7 _____/s/_____
8 MICHAEL W. ARMSTRONG
9 Attorney for Defendant KEVIN YANG

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11 Dated: December 7, 2012

12 _____/s/_____
13 AMBER ROSEN
14 Assistant Unites States Attorney

15 **ORDER**

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17 For the foregoing reasons, the Court grants the motion to continue status hearing and
18 continues the next status conference in this case from December 10, 2012 to Hgdtwct{"6."4013 at
19 9:00 a.m. For the reasons stated above, the Court further finds that the ends of justice served by
20 granting the requested continuance outweigh the best interests of the public and the defendant in a
21 speedy trial. See U.S.C. § 3161(h)(7)(A) and 3161(h)(8)(7)(iv). Accordingly, time shall be
22 excluded from December 10, 2012 through Hgdtwct{"6, 2013.

23 SO ORDERED.

24 Dated: December i , 2012

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26 THE HONORABLE RONALD M. WHYTE
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